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British Paper Returns a Leaked Memo

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LONDON, Dec. 16 — A British national newspaper complied today with a high court order and returned to the Government a leaked copy of a secret memorandum dealing with the handling of public information on the first cruise missile deliveries this fall.

The newspaper, The Guardian, submitted to the order, which the paper's editor said had in effect "shot full of holes" legislation designed to protect a newspaper's sources. The legislation was approved in 1981.

"This was the first case under Section 10 of the Contempt Act, which was supposed to give journalists increased protection for their sources, and it has been blown utterly apart," the editor, Peter Preston, said after the newspaper returned a photocopy of the memorandum, which was written by Defense Secretary Michael Heseltine to Prime Minister Margaret Thatcher.

"One of the most amazing things about this case," Mr. Preston said, "is that I have no idea who the source is."

The memo, written by Mr. Heseltine on Oct. 20 and stamped "secret," told the Prime Minister that the first American cruise missiles were expected to arrive at Greenham Common air force base on Nov. 1 and detailed the arrangements being made to handle the public and parliamentary debate that was certain to accompany the delivery.

Guardian Printed 2 Articles

According to The Guardian, a copy of the memo arrived at its offices the next evening. After its contents were checked with Defense Ministry sources, the newspaper printed a front page article revealing the planned delivery date. The full text was printed 10 days later as Parliament began a debate on the missiles. The articles were believed to have caused the Government to delay delivery of the missiles.

The Government sued The Guardian in hopes that the photostat contained clues, such as watermarks or identifying numbers, that would lead investigators to the source.

A three-judge Appeal Court panel upheld the order issued Thursday that directed the paper to hand over the memo.

Lord Justice Sir Hugh Griffiths, a member of the panel, said that as long as the source was unidentified, "he remains a serious threat to our national security." He said, "I regard it as urgent that every possible step should be taken to identify this untrustworthy person and remove him from the position where he has access to classified material."

National Security Not Hurt

The Guardian took the position in court that it had a public responsibility to protect even an anonymous source of information. It maintained that national security was not compromised by the publication of the document and asked the court to distinguish between "something that is dressed up as the security of the state but is really a political document."

The Government agreed that national security was not prejudiced by the disclosure but argued that a civil servant who violated the Official Secrets Act was a potential threat to security and it was in the national interest for investigators to be given help in identifying the person.

It was reported that only six copies of the memo were circulated and were seen only by senior officials and politicians in the Thatcher Government.

The court's ruling left most of Fleet Street confused over how to interpret the 1981 Contempt of Court Act, which says in part:

"No court may require a person to disclose the source of information contained in a publication for which he is responsible unless it is established to the satisfaction of the court that disclosure is necessary in the interests of justice and national security or for the prevention of disorder or crime."

The judge who Thursday ordered the memo's return said this section did not apply because the central issue was not "information" but the return of property to the Government. In the appeal, lawyers for The Guardian said that in-

terpretation ignored the protection granted by the 1981 act and made a distinction between oral and written information.

The Guardian has the right to appeal the decision to the House of Lords.